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**TITLE 326 AIR POLLUTION CONTROL BOARD**

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**NOTICE OF READOPTION**  
**IC 13-14-9.5-1.1 NOTICE OF RULE REVIEW**  
LSA Document #07-294

This is a notice of rule review as described in [IC 13-14-9.5-1.1](#), which outlines types of rules that do not expire after seven years. These types of rules are: (1) rules required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law; and (2) rules required to begin or continue receiving federal funding for implementation or operation of a program.

This is a supplementary notice to identify a particular rule that meets the criteria for a rule that does not expire under [IC 13-14-9.5-1.1](#). [326 IAC 6-4](#), Fugitive Dust Emissions, is being separately noticed from Notice of Rule Review, LSA Document #07-293, as the Indiana Department of Environmental Management (IDEM) seeks comment on whether to initiate the regular rulemaking process under [IC 13-14-9](#) to amend [326 IAC 6-4](#).

IDEM is required to publish a list of all rules that have been effective for seven years and request comment, in a 30 day comment period, on any specific rule that should be reviewed through the regular rulemaking process under [IC 13-14-9](#). This list of rules has been divided among two rulemakings: This supplementary rulemaking is complemented by a primary rulemaking listing the majority of rules subject to the review requirements of [IC 13-14-9.5-1.1](#). A portion of the rule cited in this supplementary notice is not part of Indiana's state implementation plan. IDEM anticipates that the provisions in [326 IAC 6-4](#) will generate specialized interest and that a separate rulemaking may be warranted.

IDEM must also provide notice of a public hearing before the Air Pollution Control Board concerning this [IC 13-14-9.5-1.1](#) rule review. IDEM will respond to all comments received during the comment period and provide the comments and responses to the board during the public hearing. The board, after considering the comments, responses, and testimony at the hearing, will direct IDEM on whether additional rulemaking actions must be taken to address concerns raised to the board.

**[IC 13-14-9-4\(a\)\(5\)](#) THROUGH [IC 13-14-9-4\(a\)\(7\)](#) IDENTIFICATION OF RESTRICTIONS AND REQUIREMENTS NOT IMPOSED UNDER FEDERAL LAW**

[IC 13-14-9.5-1.1](#) requires this notice to contain the information described under [IC 13-14-9-4\(a\)\(5\)](#) through [IC 13-14-9-4\(a\)\(7\)](#) regarding restrictions and requirements of the listed rules that are not imposed under federal law. [326 IAC 6-4](#) contains an element that extends beyond federal requirements at the time of adoption. [326 IAC 6-4-2\(4\)](#) establishes that a source or sources generating fugitive dust is in violation of the rule if that fugitive dust visibly crosses the boundary or property line of the source. Except for this provision, the entirety of [326 IAC 6-4](#) has since been incorporated into Indiana's State Implementation Plan (SIP) and is federally enforceable.

**LIST OF REVIEWED RULES**

[326 IAC 6-4](#), Fugitive Dust Emissions, has been effective for seven years and is required to receive or maintain delegation, primacy, or approval for implementation or operation of a program established under federal law.

**REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits requests for the separate readoption of particular rule section or sections under [IC 13-14-9](#), supported by a basis for the request.

Mailed comments should be addressed to:

#07-294(APCB) [IC 13-14-9.5-1.1](#) Supplementary Sunset Notice

Sean Gorman Mail Code 61-50

c/o Administrative Assistant

Rules Development Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by July 6, 2007.

Additional information regarding this action may be obtained from Sean Gorman, Rules Development Section, Office of Air Quality, (317) 234-3533 or (800) 451-6027 (in Indiana).

Kathryn A. Watson, Chief  
Air Programs Branch  
Office of Air Quality

[Notice of Public Hearing](#)

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